

**United States District Court**  
**for the**  
**Western District of New York**

**United States of America**

**v.**

**DANIEL VILLAFANE-LOZADA**

*Defendant*

Case No. 18-MJ- 88



**CRIMINAL COMPLAINT**

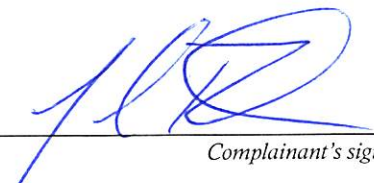
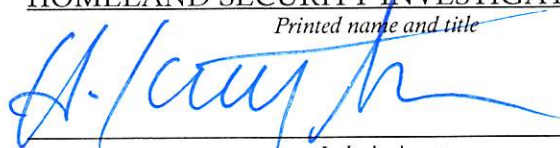
I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

(1) On or about April 19, 2018, in the County of Erie, in the Western District of New York, the defendant, DANIEL VILLAFANE-LOZADA, did knowingly possess child pornography, in violation of **Title 18, United States Code, Section 2252A(a)(5)(B)**.

(2) Between on or about November 1, 2016, and on or about January 31, 2017, in the Western District of New York, the defendant, DANIEL VILLAFANE-LOZADA, using facilities and means of interstate and foreign commerce, that is, the internet, did knowingly persuade, induce, entice, and coerce Minor Victim 1, an individual who has not attained the age of 18 years, to engage in sexual activity, for which any person can be charged with a criminal offense, in violation of **Title 18, United States Code, Section 2422(b)**.

This Criminal Complaint is based on these facts:

☒ Continued on the attached sheet.

  
\_\_\_\_\_  
*Complainant's signature*  
**JUSTIN J. BURNHAM**  
**SPECIAL AGENT**  
**HOMELAND SECURITY INVESTIGATIONS**  
\_\_\_\_\_  
*Printed name and title*  
  
\_\_\_\_\_  
*Judge's signature*

Sworn to before me and signed in my presence.

Date: May 22, 2018

City and State: Buffalo, New York

**H. KENNETH SCHROEDER, JR.**  
**UNITED STATES MAGISTRATE JUDGE**  
\_\_\_\_\_  
*Printed name and title*

**AFFIDAVIT IN SUPPORT OF COMPLAINT**

I, Justin J. Burnham, being duly sworn, depose and state:

**INTRODUCTION**

1. I am a Special Agent with Homeland Security Investigations (HSI) and have been so employed since October of 2008. I am currently assigned to the Buffalo Field Office of HSI and I am assigned to the Child Exploitation Unit (CEU). As a member of the CEU, I investigate the sexual exploitation of children, including possession, receipt, and the production of child pornography, as well as coercion and enticement, in violation of Title 18, United States Code, Sections 2251, 2252, 2252A, and 2422(b). I have received specialized training in the area of child pornography, child exploitation, and coercion and enticement, and I have had the opportunity to observe and review numerous examples of child pornography, as defined in Title 18 United States Code, Section 2256.

2. I make this affidavit in support of a criminal complaint charging Daniel VILLAFANE-LOZADA (hereinafter "VILLAFANE"), with violations of Title 18, United States Code, Sections 2252A(a)(5)(B) (Possession of Child Pornography) and 2422(b) (Enticement of a Minor).

3. The information contained in this affidavit is based upon my personal knowledge and observation, my training and experience, conversations with other law enforcement officers and witnesses, and a review of documents and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause in support

of a criminal complaint charging VILLAFANE with the above offenses, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts necessary to establish probable cause to believe that VILLAFANE knowingly violated Title 18, United States Code, Sections 2252A(a)(5)(B) and 2422(b).

#### **PRE-SEARCH WARRANT INVESTIGATION**

4. On or about October 3, 2017, Google, Inc. submitted Cybertip number 24669469 to NCMEC regarding the possible possession of child pornography by a suspect with the email address of hornyguy65321@gmail.com who used the IP address of 72.75.220.49 to upload said child pornography.

5. On October 24, 2017, the Cybertip was reviewed by the New York State Police (hereinafter "NYSP").

6. On January 4, 2018, a DHS administrative summons was sent to Verizon for the upload IP address of: "72.75.220.49 on October 2, 2017 at 09:59:04 UTC."

7. In addition, the summons requested the following two other dates/times for the login and registration of the account: "72.75.220.49 on 09-12-2017 16:25:54 UTC (Login)"; and "72.75.220.49 on 07-23-2017 05:56:28 UTC (Registration)."

8. On January 5, 2018, Verizon responded to the summons by providing the following information, among other information:

Start: May 24, 2017 for address 72.75.220.49 (still connected on summons date)

Account creation: 04/06/2010

Customer Name: John Darling

Account Address: 138 Angle Rd. West Seneca, NY 14224

### **SEARCH WARRANT**

9. On April 17, 2018, the NYSP applied for and received a New York State search warrant authorizing the search of the premises located at 138 Angle Road in West Seneca, New York.

10. On April 19, 2018, the NYSP with assistance from the Homeland Security Investigation Child Exploitation Unit, executed the New York State search warrant at 138 Angle Road in West Seneca, New York. During the search warrant, multiple items were seized, including a micro memory card found in VILLAFANE's bedroom.

### **INTERVIEWS**

11. Consensual, non-custodial interviews were conducted with

VILLAFANE on the day of the search warrant execution as well as on May 3, 2018, the day that VILLAFANE participated in a polygraph examination. During these interviews, VILLAFANE admitted that the recovered micro memory card belonged to him and that he had previously downloaded child pornography onto this memory card.

12. During these interviews, VILLAFANE admitted that he first became interested in child pornography approximately two years ago and that he has viewed this material while masturbating. VILLAFANE also admitted that he was the user of the hornyguy65321@gmail.com email address, that he logged into this email address both from 138 Angle Road in West Seneca, New York as well as an address located at the State University of New York (SUNY) Fredonia when he resided there, and that he had uploaded an image of child pornography to an internet service provider (ISP). VILLAFANE also advised that he has used the services of social media companies including Kik, Grindr, and the dark web to view child pornography, to communicate with other individuals about his sexual attraction toward minor males, to communicate with minor males, to receive child pornography, to distribute child pornography, and to cause the production of child pornography.

13. During the May 3, 2018 interview, VILLAFANE also stated that he engaged in sexual contact with multiple individuals who were under the age of eighteen years of age.

**MINOR VICTIM 1 (Enticement of a Minor)**

14. On May 3, 2018, when asked about any sexual contact with individuals under the age of eighteen years old, VILLAFANE admitted that this occurred with approximately two individuals. VILLAFANE admitted that he had sexual contact with minor victim 1 (hereinafter "MV1") on at least three occasions approximately two years ago (between on or about November of 2016 to on or about January of 2017). VILLAFANE advised that he was approximately twenty years of age at the time of his sexual contact with MV1, however law enforcement databases show that VILLAFANE would have been twenty-one years of age between November 2016 and January 2017. VILLAFANE admitted MV1 was fifteen years of age at the time of the sexual contact. The identity of MV1, who has not yet been interviewed, is believed to be known, but his name has been redacted from this affidavit because of the minor's age.

15. VILLAFANE explained that, a few days after meeting on the social networking site "Grindr", VILLAFANE and MV1 communicated with each other via the internet through an application called "Text Now" and agreed to meet in-person at MV1's residence located in the Western District of New York. VILLAFANE admitted that he and MV1 both performed oral sex on one another at that time.

16. VILLAFANE admitted that he and MV1 met in person on at least two more occasions. VILLAFANE advised that all of these encounters happened at

MV1's residence and involved similar sexual contact. Additionally, VILLAFANE requested, and MV1 performed, anal sex on VILLAFANE during their final encounter.

17. VILLAFANE advised that MV1's mother was asleep and unaware of VILLAFANE's presence for all of the encounters, except the final encounter, and that each encounter lasted approximately one hour each. VILLAFANE told law enforcement officials that the duration of time from VILLAFANE and MV1's first communication to their final encounter spanned over a couple of weeks.

**MINOR VICTIM 2 (Enticement of a Minor)**

18. VILLAFANE also admitted to engaging in sexual contact with a second minor victim. At the time of the sexual contact, VILLAFANE said he was 19-years-old and that minor victim 2 (hereinafter "MV2") advised him that he was fourteen-years-old. The identity of MV2, who has not yet been interviewed, is believed to be known, but his name has been redacted from this affidavit because of the minor's age. VILLAFANE admitted that he met MV2 after placing an advertisement on Craigslist for anyone interested in "having fun" in the area of Chautauqua county. During the interview, VILLAFANE further described "having fun" as being "friends with benefits." VILLAFANE stated that he received several responses and that one of these responses came from MV2. Despite knowing MV2's age, VILLAFANE continued to communicate with him through electronic mail and through social media networks.

19. Within a few days of communicating, VILLAFANE stated that he and MV2 agreed to meet in-person in a secluded state park in the Western District of New York. VILLAFANE said MV2 rode his bicycle to the meeting during which VILLAFANE performed oral sex on MV2.

20. According to VILLAFANE, a few days later, he and MV2 again agreed to meet in person at an abandoned warehouse in the Western District of New York. VILLAFANE admitted that he performed oral sex on MV2 at that time. VILLAFANE advised that the duration of time from VILLAFANE and MV2's first communication to their second encounter was approximately one week.

21. VILLAFANE admitted that he knew that, as an adult, having sexual contact with anyone under the age of eighteen was illegal.

#### **UNKNOWN ADULT MALE**

22. During the interview on May 3, 2018, VILLAFANE described a time that he communicated with an unknown adult male (hereinafter "UAM") using the social networking application, Kik Inc. VILLAFANE admitted that he sent child abuse material to this UAM through KIK or email. Eventually, VILLAFANE and the UAM began to meet in-person and continued to do so on several occasions. VILLFANE stated that he and the UAM performed oral sex on each other during these encounters.



23. VILLAFANE admitted that approximately six months ago, he and the UAM agreed to have sex with an unknown eight-year-old male. VILLAFANE said that the UAM told VILLAFANE that he had access to the eight-year-old child because the UAM was his babysitter. VILLAFANE said the UAM told him that he (UAM) would pick up VILLAFANE and drive him and the minor to the UAM's cabin located approximately one hour away from Buffalo, New York, at which point they would both engage in sexual contact with the minor. VILLAFANE said that the UAM had told him that he (UAM) has had sexual relations with this young boy and that he and the UAM talked about drugging the child so that VILLAFANE could have sexual relations with the eight-year-old boy.

24. VILLAFANE then talked about the day that he and the UAM planned to have sexual contact with the minor at the UAM's cabin. VILLAFANE said that he was waiting for the UAM to pick him up, but that the UAM never arrived to pick him up. VILLAFANE stated that the UAM later explained to VILLAFANE that the minor's parents had issues with their vehicle and were unable to bring the minor to his residence for babysitting purposes. HSI continues to pursue the identity of this UAM.

**MICRO SD CARD FORENSIC EXAM – Possession of child pornography**

25. During the aforementioned NYS search warrant, law enforcement officials discovered the memory card referenced in paragraph 10 above that

VILLAFANE admitted was used to download child pornography. In May of 2018, the information from this Toshiba 4 gigabyte micro SD card was extracted by HSI Group Supervisor James Kilpatrick and later reviewed by HSI SA Justin Burnham. During the review, SA Burnham identified approximately 30 videos and 22 images of child pornography, including child pornography material involving toddlers. Examples of this child pornography include:

a. **"84578946786674385637485.mp4"** – This video file depicts the erect penis of an adult male being inserted into the anus of a pre-pubescent minor male child who appears to be under the age of ten years old. The focus of the recording device is on the insertion of the adult male penis so the upper body of the child is not visible. The child is hovering over the adult male who is lying on his back and the adult male is between the legs of the child.

b. **"67464.wmv"** – This video file depicts the erect penis of an adult male being inserted into the anus of a pre-pubescent minor male child who appears to be under the age of ten years old. The minor child is naked from the waist down, but appears to be wearing a green and white shirt. At points in the video, the minor child is seen on his hands and knees while the adult male stands behind him inserting his penis into the anus of the minor child.

c. **"5465.mp4"** – This video file depicts an adult male engaging in intercourse with a child that does not appear to be over the age of three. The adult male is wearing

a red, long-sleeve shirt and what appears to be football pajama pants which are lowered during the video. The child is wearing a yellow top and appears to be naked from the waist down. At one point in the video, the adult man is seen inserting his erect penis into the anus of the pre-pubescent toddler child.

### CONCLUSION

26. Based upon the foregoing, I respectfully submit that I have probable cause to believe that Daniel VILLAFANE-LOZADA, has violated Title 18, United States Code, Section 2252A(a)(5)(B) (Possession of Child Pornography) and 2422(b) (Enticement of a Minor).

  
Justin J. Burnham, Special Agent  
Homeland Security Investigations

Sworn to before me this 22nd day of  
May, 2018

  
HON. H. KENNETH SCHROEDER, JR.  
United States Magistrate Judge